

REMARKS

The following remarks are responsive to the non-final Office Action mailed on August 12, 2009 (*Office Action*). At the time of the *Office Action*, claims 1–16 were pending.

- Claims 1–3 and 6–13 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
- Claims 1–5 and 14–16 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter;
- Claims 1–8 and 11–13 stand rejected under 35 U.S.C. § 103(a) as being obvious over Wiles et al. (U.S. Patent Application Publication No. 2002/0078261, hereinafter *Wiles*) in view of Menzies et al. (U.S. Patent Application Publication No. 2002/0091809, hereinafter *Menzies*); and
- Claims 9–10 and 14–16 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Wiles* and *Menzies*, and further in view of Emaru et al. (U.S. Patent Application Publication No. 2005/0021547, hereinafter *Emaru*).

Claims 1, 5, 6, 11, 14, 15, and 16 are amended herein to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The distinctions between the claims and the art of record are discussed herein.

Rejection of claims under 35 U.S.C. § 112, second paragraph

In rejecting claim 1 under 35 U.S.C. § 112, second paragraph, the Examiner asserted that “[i]t is unclear how construction of a template would make it possible to send an ordered string of information” (*Office Action*, p. 2). Applicants amend claim 1 herein to replace “making it possible to subsequently send an ordered string of information corresponding to said template” with “said template indicating an ordered string of information to be sent.” Accordingly, Applicants submit that claim 1 as amended particularly points out and distinctly claims the subject matter which Applicants regard as the invention as required by 35 U.S.C. § 112, second paragraph. Applicants respectfully request that the Examiner withdraw the rejection of claim 1 under 35 U.S.C. § 112, second paragraph.

Claims 6 and 11 were rejected upon similar grounds as claim 1 (*Office Action*, p. 2). Applicants have amended each of claims 6 and 11 as described above with respect to claim 1. Accordingly, Applicants submit that claims 6 and 11 as amended particularly point out and distinctly claim the subject matter which Applicants regard as the invention as required by 35 U.S.C. § 112, second paragraph. Applicants respectfully request that the Examiner withdraw the rejection of claims 6 and 11 under 35 U.S.C. § 112, second paragraph.

Claims 2–3, 7–10, and 12–13 were rejected for depending upon parent claims 1, 6, and 11, respectively. Applicants respectfully request that the Examiner withdraw the rejection of claims 2–3, 7–10, and 12–13 under 35 U.S.C. § 112, second paragraph, for at least the same reasons as those provided for their parent claims above.

Rejection of claims under 35 U.S.C. § 101

In rejecting claims 1–4 under 35 U.S.C. § 101, the Examiner asserted that “[t]he instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process” (*Office Action*, p. 3). Applicants respectfully traverse the rejection.

Applicants submit that claims 1 and 4, as amended, meet the “machine-or-transformation test” as described in the August 2009 Interim Examination Instructions for Evaluating Subject Matter Eligibility under 35 U.S.C. § 101 published by the U.S. Patent and Trademark Office and made effective on August 24, 2009 (hereinafter, *Interim Instructions*). As explained in the *Interim Instructions*, “[t]ransformation’ of an article means that the ‘article’ has *changed* to a different state or thing” (*Interim Instructions*, p. 5). As also explained, “[a]n article can also be electronic data that represents a physical object or substance” (*Interim Instructions*, p. 5). As recited in claim 1, “the value of first word pertains to an indication of the **object**” of a communication network. As also recited, “the value of second word pertains to an information length of the **object**” of the communication network. As further recited, the objects are “**pertaining to hardware, software or network operation elements**, catalogued in an administration information base”. Thus, the first word and the second word are representative of part of the communication network, which is a **physical object**. At least because the template comprises an ordered set of pairs of words generated,

the template also is representative of part of the communication network, and therefore of a physical object.

Furthermore, the steps of “generating . . . a pair of words” and “constructing a template” recited in claim 1 as well as the steps of “obtaining a template” and “sending an ordered string of information corresponding to said template” recited in claim 4 transform electronic data pertaining to the communication network. As the *Interim Instructions* discuss that “transformation of electronic data has been found when the nature of the data has been changed such that it has a different function or is suitable for a different use,” claims 1 and 4 satisfy the “transformation” aspect, at least, of the machine-or-transformation test. In particular, the listed steps of claims 1 and 4 serve to transform the electronic data for minimizing a bandwidth required for the transfers of communication network administration information. Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 101 from claims 1–4.

In rejecting claim 5 under 35 U.S.C. § 101, the Examiner cited *In re Nuijten* (Fed. Cir. Sept. 20, 2007) in asserting that “[a] signal composed . . .” is nonstatutory subject matter. Applicants amend claim 5 herein to recite “[a] computer-readable memory having stored thereon a signal composed . . .”. No new matter is introduced by this amendment, at least because the amendment is supported by the *Specification* of the application as filed, for example at ¶¶[0036], [0039], [0041], [0043], [0095], and [0113] of U.S. Patent Application Publication No. 2007/0274213. Applicants submit that claim 5 as amended is directed to statutory subject matter at least because “a computer-readable memory which has stored thereon a signal composed . . .” is a manufacture. Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 101 from claim 5.

In rejecting claims 14–16 under 35 U.S.C. § 101, the Examiner asserted that the claims appear to be directed to software *per se*, and asserted that “[s]oftware is functional descriptive material and nonstatutory subject matter unless embedded in a computer readable medium” (*Office Action*, p. 4). Accordingly, Applicants amend claims 14–16 to recite “A computer-readable memory having stored thereon a program executable by a processor for performing a method, the program including” prior to the aforementioned software modules. No new matter is introduced by these amendments, at least because the amendments are

supported by the *Specification* of the application as filed, for example at ¶¶[0036], [0039], [0041], and [0043] of U.S. Patent Application Publication No. 2007/0274213. Applicants submit that at least because the software as now recited in the amended claims is embedded in a computer readable medium, claims 14–16 as amended are directed to statutory subject matter. Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 101 from claims 14–16.

Rejection of claims under 35 U.S.C. § 103

In rejecting claim 1 under 35 U.S.C. § 103(a) as being obvious over *Wiles* in view of *Menzies*, the Examiner asserted that *Wiles* teaches “a method, comprising the steps of: [a] generating on the basis of said specification for each object, a pair of words for which the value of first word pertains to an indication of the object and the value of second word pertains to an information length of the object” (*Office Action*, p. 5). The Examiner admitted that *Wiles* does not disclose “[b] constructing [a] template comprising an ordered set of pairs of words generated and an identifier of said template, making it possible to subsequently send an ordered string of information corresponding to said template” (*Office Action*, p. 6). The Examiner then asserted that *Menzies* makes up for *Wiles*’ deficiency and in combination renders claim 1 obvious (*Office Action*, pp. 6–7). Applicants respectfully traverse the Examiner’s assertion.

Wiles discloses a method of managing communication between a plurality of components of a computer system using data objects (see *Wiles*, ¶[0003]). A consumer component 20 exchanges messages with a producer component 30, which may include a request for information of an object. An IDB+ module 16 retrieves information stored in a database concerning the requested object (see *Wiles*, ¶[0017]). Thus, the IDB+ module functions as an interface between the consumer component 20 and the database in order to offer a uniform access to such stored information (see *Wiles*, ¶[0002]).

The IDB+ module 16 comprises an object descriptor table 22 (see *Wiles*, Figure 4) which indicates information for each object. Such information may relate to a local ID, a size, etc. (see *Wiles*, ¶[0028]). Such a table allows storage of a description of objects based on some information.

However, *Wiles* does not disclose constructing a template as recited in claim 1 in order to indicate an ordered string of information to be sent. As explained in the *Specification* of the present application, the template as claimed enables the reduction of bandwidth used to send communication network administration information relating to an object. Indeed, such information is sent through data tickets (as illustrated in Figs. 18a-18c of the present application, and recited in the claims). Such data tickets allow transferring information while reducing bandwidth compared with a transmission according to the SNMP protocol. As discussed in the *Specification* of the present application, the SNMP protocol is not adapted for reducing bandwidth.

Wiles does not suggest a template as claimed. Moreover, *Wiles* teaches using the SNMP protocol in connection with transmission of information pertaining to the objects (e.g., see *Wiles*, ¶¶[0016], [0027], and [0029]). *Wiles* offers no motivation to one of ordinary skill in the art to use a different protocol for transmission of information pertaining to objects, much less a protocol involving the claimed construction of templates.

Menzies discloses providing management information of network devices by mapping objects between SNMP Management Information Base (MIB) schema and Common Information Model (CIM) schema. Whereas MIB modules are tree-structured lists of objects for describing SNMP network device information, CIM schema employs Managed Object Format (MOF) object-oriented classes (see *Menzies*, Abstract and ¶[0008]). Where a class models a device or component in a general sense, each instance represents a specific occurrence of the class (see *Menzies*, ¶[0046]). However, *Menzies* does not disclose or suggest constructing a template comprising an ordered set of pairs of words generated on the basis of a formal language specification for each object of a communication network, the template indicating an ordered string of information to be sent as recited in claim 1 of the present application.

While the terms “class” and “template” are used by *Menzies* in explaining the same concept, *Menzies*’ use of the term “template” does not correspond to the use of the term “template” as recited in the claims of the present application. Applicants assert that the meaning of words used in a claim must not be construed in a “lexicographic vacuum”, but in the context of the specification and drawings. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (MPEP 2106 (II)(C)). *Menzies*’ class corresponds to **one general object**, whereas the template as recited in the

claims of the present application corresponds to **a plurality of objects** (“an ordered set of pairs of words”).

Specifically, *Menzies* teaches that a class models a device or component in a general sense. For example, a single class may represent a disk in general, and an instance of the class may represent a specific real-world disk, but a single class will not represent both a disk and a printer. In contrast, the template as recited in the claims of the present application comprises an ordered set of pairs of words for **each object** of a communication network. In other words, continuing the example, the template as recited in the claims can represent **both** a printer and a disk in the communication network.

Furthermore, *Menzies* teaches a class to describe an object, but does not teach or suggest organizing information according to a template in order to send information relating to **a plurality of objects** while reducing the bandwidth required compared to the prior art. Applicants submit that one of ordinary skill would not consider *Menzie*’s teaching of a class modeling a device or component in a general sense to equate to or suggest constructing a template comprising an ordered set of pairs of words generated on the basis of a formal language specification for each object of a communication network, the template indicating an ordered string of information to be sent as claimed.

At least since the combination of *Wiles* and *Menzies* does not result in the claimed invention, and further because there is no teaching, suggestion, or motivation to modify *Wiles* or *Menzies* to reach the claimed invention, Applicants submit that claim 1 is novel and nonobvious over the cited references. Applicants respectfully request that the Examiner withdraw the rejection and allow claim 1.

Claims 2 and 3 depend from claim 1. For at least the same reasons as those provided for independent claim 1, dependent claims 2 and 3 are novel and nonobvious over the cited art. Applicants respectfully request that the Examiner allow claims 2 and 3.

The Examiner rejected claims 4–6 and 11 upon similar grounds as claim 1 (*Office Action*, p. 10). For at least the same reasons as those provided for claim 1, Applicants submit that claims 4–6 and 11 are novel and nonobvious over the cited art. Applicants respectfully request that the Examiner allow claims 4–6 and 11.

Claims 7–10 depend from claim 6. For at least the same reasons as those provided for independent claim 6, dependent claims 7–10 are novel and nonobvious over the cited art. Applicants respectfully request that the Examiner allow claims 7–10.

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Claims 12–13 depend from claim 11. For at least the same reasons as those provided for independent claim 11, dependent claims 12–13 are novel and nonobvious over the cited art. Applicants respectfully request that the Examiner allow claims 12–13.

The Examiner rejected claims 14–15 upon similar grounds as claim 9 (*Office Action*, p. 12). For at least the same reasons as those provided for claim 9, Applicants submit that claims 14–15 are novel and nonobvious over the cited art. Applicants respectfully request that the Examiner allow claims 14–15.

Claim 16 depends from claim 15. For at least the same reasons as those provided for independent claim 15, dependent claim 16 is novel and nonobvious over the cited art. Applicants respectfully request that the Examiner allow claim 16.

Conclusion

Applicants submit that the application is in good and proper form for allowance, and respectfully request reconsideration and allowance of the present application. If a telephone conference may be beneficial in advancing prosecution of the present application, the Examiner is requested to contact the undersigned.

Respectfully submitted,

/brian c. rupp/

Brian C. Rupp, Reg. No. 35,665
Brent K. Whitlock, Ph.D., Reg. No. 61,371
DRINKER BIDDLE & REATH LLP
191 North Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698
(312) 569-1000 (telephone)
(312) 569-3000 (facsimile)
Customer No.: 08968

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